

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6479

IN THE MATTER OF:

Served January 3, 2002

Investigation of Unauthorized)
and Unsafe Operations of JUNIOR'S)
ENTERPRISES, INC., WMATC No. 401,)
and Order to Show Cause)

Case No. MP-2001-103

On October 17, 2001, the Commission issued Order No. 6387 initiating an investigation of respondent's operations after one of applicant's vehicles failed an inspection by Commission staff. The order gave respondent thirty days to produce all revenue vehicles for inspection by Commission staff and to show cause why the Commission should not assess a civil forfeiture for knowing and willful violation of Title II of the Compact, Article XI, Section 5(a), which mandates that each WMATC carrier shall provide safe and adequate transportation service, equipment, and facilities, as well as knowing and willful violations of Commission Regulations Nos. 61 and 62 governing vehicle markings and leases, respectively.

On November 16, respondent's president requested an additional five days in which to respond, citing personal reasons. The request was granted for good cause shown, but no vehicles were presented for inspection by the extended deadline,¹ and the show cause response filed November 19 is not signed and notarized as required by Commission Rule No. 4 and is, therefore, inadmissible.²

In the meantime, records obtained by the Commission from the Business Services and Finance Division of the Maryland State Department of Assessments and Taxation (MSDAT), show that respondent forfeited its charter on October 6, 1998. Under Maryland law, a corporation ceases to exist upon forfeiture of its charter, and all assets owned by a corporation at the time of forfeiture are transferred by operation of law to the corporation's directors.³ It

¹ Insurance records obtained by the Commission from the filer of respondent's insurance certificate show four vehicles currently insured for use in respondent's commercial operations. Unofficial Maryland Motor Vehicle Administration records obtained by the Commission show that three of the four are not registered in respondent's name and do not have commercial plates. Only one of the three is covered by a lease on file with the Commission, and only one is covered by a safety inspection certificate. The Commission has no additional information on the fourth vehicle at this time.

² The response, in any event, admits the violations of Regulations Nos. 61 and 62 and is not supported by any proof that the three vehicles not covered by a safety inspection certificate are safe for use in commercial operations.

³ Cloverfields Improvement Ass'n. Inc., v. Seabreeze Properties, Inc., 362 A.2d 675 (Md. Ct. Spec. App. 1976), aff'd, 373 A.2d 935 (Md.

therefore appears that the violations noted in Order No. 6387 were committed not by respondent but by respondent's trustee(s) in forfeiture. Likewise, the failure to comply with Order No. 6387 is the failure of the trustee(s). Added to those violations is the failure of the trustee(s) to obtain approval of the transfer of Certificate No. 401.⁴

The trustee(s) in forfeiture of Junior's Enterprises, Inc., shall have thirty days to show cause why the Commission should not assess a civil forfeiture for knowing and willful violations of Article XI, Section 5(a), and Article XI, Section 11,⁵ of the Compact, Commission Regulations Nos. 61 and 62, and Commission Order No. 6387.

In addition, the Commission shall suspend operations under Certificate of Authority No. 401 unless and until otherwise ordered, and the trustee(s) in forfeiture of Junior's Enterprises, Inc., shall have thirty days to show cause why Certificate No. 401 should not be revoked.

THEREFORE, IT IS ORDERED:

1. That no operations may be conducted under Certificate of Authority No. 401 unless and until otherwise ordered by the Commission.

2. That the trustee(s) in forfeiture of Junior's Enterprises, Inc., shall within thirty days from the date of this order show cause why the Commission should not assess a civil forfeiture for knowing and willful violations of Article XI, Section 5(a), and Article XI, Section 11, of the Compact, Commission Regulations Nos. 61 and 62, and Commission Order No. 6387.

3. That the trustee(s) in forfeiture of Junior's Enterprises, Inc., shall within thirty days from the date of this order show cause why Certificate of Authority No. 401 should not be revoked.

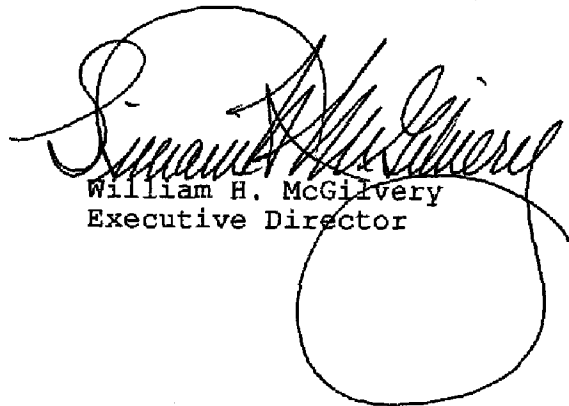
1977). According to respondent's application for operating authority filed June 3, 1997, the directors are Terry Lee Harwood and respondent's president, Horace C. Green, Jr.

⁴ Under the Compact, Commission approval must be obtained to transfer a WMATC Certificate of Authority. Compact, tit. II, art. XI, § 11(a). This includes transfer by reason of forfeiture of corporate charter. In re Atlantic Valet, Inc., t/a Atlantic Transp., & Atlantic Servs. Group, Inc., No. AP-01-34, Order No. 6254 (June 15, 2001).

⁵ Article XI, Section 11, prohibits the transfer of WMATC authority without Commission approval and prohibits the use of WMATC authority by anyone other than the person to whom it was issued. It appears that both of these commandments have been broken by the trustee(s) in forfeiture.

4. That the trustee(s) in forfeiture of Junior's Enterprises, Inc., may file within 15 days from the date of this order a request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, LIGON, AND MILLER:



William H. McGilvery
Executive Director